



Flathead County Planning & Zoning

40 11th Street West, Suite 220 Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210

PETITION FOR ZONING AMENDMENT



Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 865.00

APPLICANT/OWNER:

1. Name: Montana Personal Warehouse I, LLC Phone: 800.989.0220
2. Mail Address: 1041 Crown Park Circle
3. City/State/Zip: Winter Garden, FL 34787
4. Interest in property: Purchaser under Buy-Sell Agreement Presently in Effect

Check which applies: ☐ Map Amendment ☒ Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

Name: Brian M. Joos, Esq. Phone: 406-862-7800
Mailing Address: 121 Wisconsin Avenue
City, State, Zip: Whitefish, MT 59937
Email: joos@bigskyattorneys.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text/map amendment? See Exhibit 1.

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: N/A
- B. Legal Description: N/A
(Lot/Block of Subdivision or Tract #)
N/A
Section Township Range *(Attach sheet for metes and bounds)*
- C. Total acreage: N/A
- D. Zoning District: N/A
- E. The present zoning of the above property is: N/A
- F. The proposed zoning of the above property is: N/A
- G. State the changed or changing conditions that make the proposed amendment necessary: N/A

THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

See Exhibit 2.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?
2. Is the proposed amendment designed to:
 - a. Secure safety from fire and other dangers?
 - b. Promote public health, public safety and the general welfare?
 - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?
3. Does the proposed amendment consider:
 - a. The reasonable provision of adequate light and air?
 - b. The effect on motorized and non-motorized transportation systems?
 - c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities?
 - d. The character of the district and its peculiar suitability for particular uses?
 - e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area?
4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.


Owner/Applicant Signature(s)
Brian Joos, Attorney-In-Fact
for Applicant

July 2, 2020
Date

EXHIBIT 1

A. What is the proposed zoning text / map amendment?

The proposed amendment is a text amendment involving the addition of text to two sections, but with no changes to the language of the text already existing in those sections, as follows:

OLD LANGUAGE:

4.13.070 All storage shall be kept within an enclosed building, except propane or gasoline engines or storage tanks or any boat or vehicle incorporating such components, which shall be stored in screened exterior areas. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperable vehicles.

NEW LANGUAGE (changes boldfaced and underlined):

4.13.070 All storage shall be kept within an enclosed building, except propane or gasoline engines or storage tanks or any boat or vehicle incorporating such components, which shall be stored in screened exterior areas **unless the enclosed building is engineered to accommodate such storage with a minimum of 1 hour fire separation between units using Type X fire-rated drywall and metal panels, or similar materials.** This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperable vehicles.

OLD LANGUAGE:

4.13.090 The repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank or any boat or vehicle incorporating such components is prohibited within any structure on a tract of land designated as a mini-storage or recreational vehicle storage facility.

NEW LANGUAGE (changes boldfaced and underlined):

4.13.090 The repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank or any boat or vehicle incorporating such components is prohibited within any structure on a tract of land designated as a mini-storage or recreational vehicle storage facility **unless the structure is engineered to accommodate such use or storage with a minimum of 1 hour fire separation between units using Type X fire-rated drywall and metal panels, or similar materials.**

EXHIBIT 2

1. Is the proposed amendment in accordance with the Growth Policy / Neighborhood Plan?

Yes; the proposed amendment specifically addresses a presently existing disconnect between the Growth Policy and the zoning regulations. The Growth Policy expresses concern that “[m]any residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities. Growth Policy at Page 2, “4. Maintain the Identity of Rural Communities.” The proposed amendment would address this concern by permitting indoor storage for operational boats and vehicles to be located in already developed areas when the buildings intended for such uses are properly engineered for them. As it stands now, the Planning and Zoning Department’s position is that such facilities may be located only in Highway Overlay or un-zoned areas, which are precisely the between-community, corridor areas that the Growth Policy would like to protect from such things. With enactment of the proposed amendment, these facilities could be located in already developed, or designated to be developed, R-4, R-5, RA-1, B-2, B-4, I-1, I-1H, LS, and EEO zones, which permit “mini-storage” as a conditional use.

2. Is the proposed amendment designed to:

- a. Secure safety from fire and other dangers?**
- b. Promote public health, public safety and the general welfare?**
- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?**

Yes; the proposed amendment expressly addresses fire and safety by requiring that facilities permitting indoor boat and vehicle storage in the affected zones be appropriately engineered with, at minimum, “1 hour fire separation between units using Type X fire-rated drywall and metal panels, or similar materials.” As it stands according to the Planning and Zoning Department, these facilities may only be built in Highway Overlay or un-zoned areas, neither of which have requirements addressing fire safety in this way.

The proposed amendment would also be a benefit to public health, public safety, the general welfare, and the adequate provision of transportation because it would allow appropriately engineered facilities which allow indoor vehicle storage to be located in areas that are more equipped to deal with them. The affected zones, R-4, R-5, RA-1, B-2, B-4, I-1, I-1H, LS, and EEO, generally are more developed than Highway Overlay or un-zoned areas and sit in closer proximity to existing fire and police stations, meaning that first responders, if they need to respond to incidents at these facilities, will not have to travel as far and will travel on road networks more adequately designed to accommodate them.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air?**
- b. The effect on motorized and non-motorized transportation systems?**
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities?**

- d. The character of the district and its peculiar suitability for particular uses?**
- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area?**

The proposed amendment does consider these factors, and does not adversely impact any of them. It has a positive affect on motorized and non-motorized transportation systems by allowing appropriately engineered facilities which permit indoor vehicle storage to be located closer to urban areas rather than exclusively in the un-zoned or HO corridors, which supports the aforementioned goal set forth in the Growth Policy to keep them away from rural corridors as much as possible. Additionally, the character of the affected zones, R-4, R-5, RA-1, B-2, B-4, I-1, I-1H, LS, and EEO, is far more compatible with and suitable for such facilities than more rural un-zoned or HO zones for all of the reasons outlined above. Finally, the proposed amendment serves the goal of encouraging the most appropriate use of land throughout the jurisdictional area by providing an way for the facilities associated with this amendment to be located in and closer to urban and developed areas rather than on tracts of land which would more appropriately be used for agricultural or rural residential purposes, and which would not be well-served by the location of such facilities upon them, even though the zoning regulations as they exist now would permit them.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

Yes. The use contemplated by the proposed amendment arguably would be permitted warehousing in the Whitefish WB-2 zone, which lines much of Highway 93 south of downtown, and which is strikingly similar to the affected County zones in its character and suitability for such uses, as well as its character as and proximity to developed and urban areas. Although it contains similar language to the County in terms of indoor vehicle storage characterized as “mini-storage,” the B-2 zone in Kalispell, which is similar in character to the affected County zones and comprises much of the similar area within Kalispell’s city limits, permits parking garages and many other uses which allow for indoor vehicle storage, including automobile service, sales, and repair. Like the uses contemplated by this amendment, those facilities are appropriately engineered for fire safety, and they are permitted in Kalispell’s B-2 zone. Finally, the uses contemplated by the proposed amendment are similar to (and in most cases, less objectionable than) uses allowed within Columbia Falls zones CSAG-20, CSAG-10, CB-1, CB-2, CI-1, and CI-2, which are similar to the affected County zones in their character as, and/or proximity to, developed and urban areas.

JUL 2 2020